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Summary record of the 2619th meeting
Held at the Palais Wilson, Geneva, on Wednesday, 25 April 2018, at 10 a.m.

Chair: Mr. Amir

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The meeting was called to order at 10.05 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined eighth to tenth periodic reports of Kyrgyzstan (*continued*)
(CERD/C/KGZ/8-10 and CERD/C/KGZ/Q/8-10)

1. *At the invitation of the Chair, the delegation of Kyrgyzstan took places at the Committee table.*

2. **Mr. Saliev** (Kyrgyzstan), replying to questions raised by Committee members at the previous meeting, said that the low representation of ethnic minorities in national and local government bodies was frequently attributable to economic factors such as low salaries. However, there had been a rise in their representation at various levels of government, in the State and municipal civil service and among the law enforcement authorities. Members of the Uzbek community, for instance, had displayed a growing interest in attending military academies. The authorities were prepared to engage in a dialogue on increasing the representation of ethnic minorities and were already taking steps to that end. Government websites clearly indicated the skills required of prospective civil servants, and testing and promotion procedures were subject to government approval; candidates who scored a sufficient number of points were recruited, regardless of their ethnicity or gender.

3. The sources of inter-ethnic conflict were of a systemic nature. Destructive forces among the population had exploited the frustration of people living in poverty to fan ethnic and nationalistic fervour. In the absence of an effective State policy on inter-ethnic relations, Kyrgyz society was unable to combat the rise in xenophobia. The situation in Osh and Jalal-Abad had been particularly tense due to rivalry between criminal groups and drug cartels. As the problems escalated, ethnic divisions were further exploited and political demands were made, for instance, to separate the area where Uzbeks lived from the territory of Kyrgyzstan. The complex nature of the conflict, which was a reflection of cultural differences, tense economic relations and issues relating to property and resource ownership, had seriously hindered post-conflict reconstruction.

4. Uzbeks had suffered the most from the lack of transparent housing legislation. The compensation paid in the wake of the events of June 2010 had been five times less than the amount required to repair the damages. International experts acknowledged the inevitable difficulty in post-conflict situations of reconciling the short-term need to act swiftly and decisively in order to assist internally displaced persons in returning to their homes and the long-term need for sustainable reconstruction and reconciliation.

5. According to information from the local authorities, 22 homes in the centre of Osh had been demolished as part of an urban renewal project. Building regulations had been strictly respected and compensation had been paid to the owners based on estimates calculated by an independent auditor. In Jalal-Abad, the authorities had decided to expand two city streets. A protocol providing for financial compensation as calculated by an independent auditor had been concluded in 2016 with 33 residents whose homes would be demolished. Four residents who had not received compensation had filed a lawsuit and their cases were being considered.

6. The events of 2010 were presented in school textbooks as a national tragedy. The positive role played by people on both sides of the conflict to prevent chaos and looting was fully recognized. The conflict had been resolved in four days without any outside assistance.

7. The Lyuli community had lived in the region for half a century and spoke Tajik and Uzbek. Many of the village dwellers worked as farmers, while others were employed in adjacent towns. Classes at the local secondary school were taught in Kyrgyz, Russian and English. Lyuli representatives had begun to work with the local authorities in recent years. Four members of the community had been recruited by the Ministry of Internal Affairs after completing their military service and three other members were secondary school teachers. The community was allocated land on which to build houses and was provided with social and medical services. Education officials conducted outreach work with Lyuli parents on issues related to education, early marriage and polygamy. A social fund for the Lyuli

community had been established in December 2012 to provide social and material support for the community and to encourage the enrolment of their children in schools.

8. In the regions inhabited by ethnic minorities, education was provided in each community's own language. Koreans, Chechens and Dargins, who did not live in defined communities but were spread around the outskirts of Bishkek, received schooling in Russian. Enrolment data were updated each year by the National Statistics Committee.

9. The State provided cultural support for all ethnic groups, including in areas such as traditional nomadic culture. Measures were taken to preserve ethnic groups' traditions, customs and languages. For example, the Uzbek Ethnic Cultural Centre in Osh had received a grant in 2015 to promote schooling in Kyrgyz and Russian.

10. The Assembly of the Peoples of Kyrgyzstan was a State-financed advisory body that had been created in 1994 to promote national unity, foster civic identity and alleviate inter-ethnic tensions. It comprised 35 social associations and 27 ethnic cultural centres.

11. Access to schooling in one's mother tongue had never been restricted in Kyrgyzstan. The number of schools providing instruction in the Uzbek language had increased. At the time of the 2010 conflict, 236 schools in Osh provided instruction in Uzbek and 99 in Kyrgyz and Uzbek. The segregated approach that had existed prior to the conflict had been one of the principal motives for its outbreak. Kyrgyz, for instance, had not been taught in schools where the language of instruction was Russian, Tajik or Uzbek.

12. The Government sought to improve prospects for future generations by encouraging minority ethnic groups to have their children learn both their own language and the official State language. Uzbeks in southern Kyrgyzstan, for example, had previously often studied at higher education institutions in Uzbekistan; however, that pattern had changed since Uzbekistan had begun using the Latin script.

13. The term "nationality" was not used in official documents. It was an obsolete term that had been adopted for use in the former federal structure of the Soviet Union. All official documents and laws used the term "citizenship". The ethnic affiliation of citizens was determined subjectively by each individual, and the term "ethnic community" rather than "ethnic minority" was used for collective references.

14. Under article 10 of the Constitution, members of all ethnic communities had the right to preserve their mother tongue and to create the conditions for its study and development. Citizens could address State authorities in the official language or in any language spoken by the peoples of Kyrgyzstan. Replies to written communications were provided in the language used in the communication; if that was not possible, the State or official language was used.

15. **Mr. Kamchybekov** (Kyrgyzstan) said that there was no specific law that addressed the principle of non-discrimination. However, the relevant norms were enshrined in the Constitution and in diverse codes and laws. International treaties ratified by Kyrgyzstan were automatically incorporated in the legal system and were directly enforceable throughout the territory. A number of individual laws stated that international human rights norms took priority over other norms.

16. The 2010 Constitution had laid the foundation for the development of anti-discriminatory legislation inasmuch as it guaranteed equality in terms of rights and freedoms, regardless of gender, race, language, disability, ethnicity, belief, age, political and other convictions, education, background and other circumstances. Steps were being taken to align national legislation with the Constitution and international human rights obligations. For example, the new Criminal Code, which would enter into force on 1 January 2019, included generally recognized international legal norms and the provisions of ratified international treaties. Article 4 enshrined the principle of equality of citizens before the law regardless of their status or background, as stipulated in the Constitution. The new Criminal Code thus formally prohibited discrimination based on race or ethnicity. The legislature stood ready to enact anti-discriminatory legislation but it currently lacked the necessary expertise. It therefore looked forward to cooperating with international partners.

17. There was no explicit need to include articles on racial discrimination in the new Criminal Code as the phenomenon did not exist in Kyrgyzstan. That notwithstanding, it formed part of the overall concept of discrimination and the idea of protecting the rights of ethnic minorities. Under current legislation, only individuals could be held accountable for racial discrimination; under the new Criminal Code, however, corporate bodies could also be held accountable.

18. The instability that Kyrgyzstan had seen in 2005 and 2010 had been due in part to public dismay at corruption in the judiciary and the slowness of trial proceedings. A council made up of senior government officials and civil society representatives had been established in 2012 to oversee reform of the judiciary. Subsequently, a board comprised of members of the parliamentary minority and the judiciary had been established to organize the selection of judges on a competitive basis; judges would be appointed for an initial period of five years, after which they were eligible for permanent appointment. A disciplinary commission had also been established and had the power to dismiss judges on the strength of its review of any complaints brought against them.

19. Regarding the arrangements for reviewing cases related to the events of 2010, those cases could only be reviewed upon receipt of a complaint from a victim.

20. With respect to the possibility of further reviewing the decision to confiscate Mr. Askarov's property, the case had been reviewed by the Supreme Court and returned to the Chüy provincial court for reconsideration. All witnesses had been heard and the defence had had the opportunity to present evidence in open court proceedings at which Mr. Askarov had been provided with an interpreter so that he could follow the proceedings in his own language. The Chüy provincial court had reached a decision that could be contested by the Supreme Court only if Mr. Askarov lodged an appeal. His counsel had not lodged an appeal and Mr. Askarov had therefore not exhausted all means of legal recourse in Kyrgyzstan. In accordance with the court ruling, Mr. Askarov's assets had been confiscated but his family had kept possession of the house.

21. The delegation did not have information regarding the dismissal of Uzbeks who had been involved in the events of 2010 or of their family members. However, anyone who believed his or her labour rights had been violated could submit a complaint to the courts.

22. **Mr. Ketirenov** (Kyrgyzstan), responding to the question about the voluntary surrender of firearms following the events of 2010, said that the State Committee on National Security was responsible for collecting those firearms and for reviewing the events. A large number of firearms had been handed over to the authorities but many were still unaccounted for. When firearms were turned in to the authorities, an investigation was carried out to ascertain whether they had been used for criminal purposes. As a result of such investigations, over 50 individuals had been prosecuted for the illegal possession of firearms, explosive devices and munitions.

23. A total of 103 persons wanted in connection with the events of 2010 were still at large. Statistical data on their ethnic affiliation were not available. Of the 448 persons convicted, 335 were ethnic Uzbeks and 113 were ethnic Kyrgyz. However, those figures could change as prosecutions were ongoing; the process did not suggest that Uzbeks were being deliberately targeted.

24. As to protecting human rights defenders from intimidation, in particular those representing members of minority communities, the State had measures in place to ensure the safety of all citizens. Human rights defenders could submit complaints to law enforcement agencies if they were being intimidated or harassed, but the Kyrgyz authorities had received no such complaints.

25. The first training programme on the prevention of torture and inhuman treatment of prisoners had been introduced at the Ministry of Internal Affairs Academy in 2016. In addition, human rights issues had been included in refresher courses for law enforcement officers and a special programme had been developed to increase professional discipline. Seminars and round tables on the prevention of torture were scheduled to be held in 2018 with representatives of the Office of the Ombudsman, the parliament, the Ministry of Internal Affairs and international organizations. The staff of the State Committee on

National Security had also received training on the prevention of torture. Following the initial training sessions, there had been a drop in the number of cases of torture reported and an increase in the number of law enforcement officers receiving prison sentences for having committed acts of torture.

26. In response to the question about the percentages of ethnic minorities among the prison population, he said that 61.5 per cent of inmates were Kyrgyz, 17.5 per cent were Russian, 11 per cent were Uzbek and the remaining 10 per cent included members of the Tajik, Kazakh, Uighur and Dungan ethnic communities.

27. Regarding the question of whether lesbian, gay, bisexual or transgender individuals who were members of an ethnic minority were especially vulnerable in Kyrgyzstan, he said that legislation was in place to protect their rights. The Ministry of Health had drafted guidelines for interacting with transgender, transsexual and gender non-conforming individuals which served as a reference document for most countries in the region. The efforts of the Ministry of Health to improve the lives of lesbian, gay, bisexual and transgender individuals had been commended by international experts.

28. **Mr. Abdyrakhmanov** (Kyrgyzstan) said that the parliamentary quota system guaranteed the participation of ethnic minorities in elections and had led to political parties seeking candidates from ethnic minority groups. The Elections Code had been amended to clarify the status of candidates who were standing for election under quotas, in particular women and members of ethnic minorities.

29. When hate rhetoric appeared in the media, the authorities responded immediately by issuing a warning or launching a criminal investigation. Recent investigations had involved a number of high-profile individuals. The Ombudsman had also issued warnings against fomenting ethnic hatred.

30. The fact that the Ombudsman had not received any complaints of discrimination did not reflect a lack of trust in the Office. Community drop-in centres had been opened in areas where ethnic minorities lived and discrimination-related matters were often addressed at those centres without need for involvement by the Ombudsman.

31. The global terrorism threat necessitated steps being taken to mitigate that risk. The Government, in line with a practice which was common around the world, had established guidelines for stripping a Kyrgyz national of his or her citizenship on security grounds. The specific procedures were being discussed in the legislature.

32. The State provided medical services free of charge to all citizens regardless of ethnicity or socioeconomic background. No additional compulsory insurance was required and medicines could be purchased in pharmacies.

33. The reasons for suicide in Kyrgyzstan were much the same as elsewhere in the world. In gender terms, 78 per cent of suicide victims had been men and 22 per cent women.

34. With respect to the dissemination of the Convention, the Government was striving to improve citizens' legal awareness. In that regard, it had launched a plan for the period 2016–2020 that included publishing various handbooks on human rights issues. In addition, documentary films had been produced and a national competition on human rights issues had been organized for secondary school pupils.

35. **Ms. McDougall** (Country Rapporteur), thanking the delegation for the information provided, said that she would like the members of the delegation to provide more complete details on the challenges they had faced in dealing with issues of ethnicity and how they had responded to those challenges. She wondered what the conflictual issues were between the dominant ethnic community and the Uzbek community.

36. She would appreciate greater transparency on the issue of homes being demolished or seized. It would be interesting to know the formula by which compensation was determined when a house was expropriated under an urban renewal project and whether the owner of the property was consulted in advance. People in Osh and Jalal-Abad felt that they were being punished again for the 2010 uprising. She was glad to hear that houses were being returned to some families, as she had heard reports that some people had lost their homes after signing an agreement under police intimidation.

37. If it was to resolve the issues that it faced, the State party needed to acknowledge that there was a sense of intimidation among its people and a lack of confidence in State institutions. Reports suggested that people felt too intimidated to take their complaints to the local offices that had been set up under the new law as a complement to the Office of the Ombudsman; and the absence of formal complaints regarding the events of 2010 may point to a lack of trust in the State. Furthermore, and despite the delegation's earlier statement to the contrary, the periodic report did mention cases of alleged torture filed against the police.

38. She asked what criteria were used to consider that an individual or organization was extremist or in possession of extremist materials. She wondered whether due process was guaranteed in that regard and whether individuals and organizations could appeal against their inclusion on such lists.

39. In addition to information regarding the percentage of parliamentary seats that were held by people from ethnic minority communities, the Committee would like to know how many members of those communities held positions in the civil service, the judiciary and the police. Details would also be welcome on the levels of responsibility held by ethnic minority staff members in those institutions.

40. **Mr. Bakhtiyar** (Kyrgyzstan) said that the Government's goal was to resolve any issues that threatened national unity while strengthening inter-ethnic harmony and representation. As part of the decisive action taken since the events of 2010, the Government had framed a strategy identifying key issues related to inter-ethnic relations. A full range of State actors had come together to implement the strategy and unprecedented levels of funding had been made available. In practice, the strategy involved amending legislation, promoting the State language and the language and culture of each ethnic group, and resolving issues related to citizenship and identity.

41. The number of individuals from ethnic minority communities registering for regular army service had increased since 2013. However, interest in public sector work remained low because salaries were often higher in the private sector. In addition, few schools in the south of the country offered education in Russian; that led to problems as individuals needed to understand both the State language and the official language in order to work in the public sector. The Government was therefore focusing on training people in both languages.

42. In Jalal-Abad, the need for wider roads was often the reason for demolishing houses. People living in dwellings that had been built illegally on land identified for construction works received advance notification of demolitions and were invited to discussions in the mayor's office. The homes affected were purchased by the local authorities. Concerning the doubts raised by human rights defenders as to the impartiality of the persons assessing the value of those properties, that matter could be resolved through the courts.

43. As to the preference of citizens to take their complaints to local offices rather than to the Ombudsman, each office had a consultative council made up of representatives from different ethnic communities, women's organizations, youth organizations and religious organizations. Those councils were knowledgeable about local customs and traditions, and problems could therefore often be resolved promptly. It was a positive sign that no complaints on inter-ethnic conflict had reached the Ombudsman.

44. **Mr. Kamchybekov** (Kyrgyzstan) said that the events of 2010 were already covered in the country's history books so that future generations could learn from that episode and prevent any recurrence of such incidents. In Kyrgyzstan, as in all countries where numerous ethnic groups lived side by side, it was important for public policy to address integration. In that regard, the State party's focus on education and language served as a call for reconciliation and a means to strengthen inter-ethnic relations. Every effort was being made to ensure that people living in Kyrgyzstan felt that they belonged not just to their own ethnic community but to the nation as a whole.

45. **Mr. Yeung Sik Yuen** said that he would like to know whether there was a grace period for the surrender of illegally held arms and, if so, whether it applied to everyone living in Kyrgyzstan. The Committee would also appreciate clarification on why searches

and preventive measures were being carried out to confiscate arms in Osh and Jalal-Abad Provinces, which were home to many ethnic groups, while elsewhere outreach work was being used to encourage the voluntary surrender of arms and ammunition.

46. Regarding Mr. Askarov's case, he wondered whether there was a time limit on the appeals procedure and, if so, whether the defendant was still within the period for appealing. The Committee had received information that the domestic remedies for his case had not yet all been exhausted.

47. **Mr. Avtonomov** said that an ethnic community was not always the same as a nation, just as a civic nation was not always the same as a mono-ethnic or poly-ethnic nation. That was why many indigenous communities around the world wanted to be referred to as nations or peoples. There was no single solution to that issue, but the Committee would welcome further information in the next periodic report on how the State party perceived ethnicity and nationhood.

48. He enquired whether the State party would be participating in the International Decade for People of African Descent. Lastly, the Committee would welcome further information on the State Agency for Local Government Affairs and Inter-Ethnic Relations, which dealt with the main policy areas related to the Convention. In particular, he wondered whether that agency had sufficient human and financial resources.

49. **Mr. Marugán** said that there were some 855 cases of stateless persons still pending in Kyrgyzstan and asked how they would be addressed. Regarding the 2016 constitutional amendment to address national security issues, he enquired whether the delegation had any information on cases of deportation or cases where the amended provisions of the Internal Migration Act had been applied. The Committee would also welcome clarification on whether, under current legislation, a person repeatedly charged with illegal stay could be subject to administrative deportation without a court order.

50. The Committee had learned that lesbian, gay, bisexual and transgender individuals who were members of an ethnic community were often victims of hate crimes and ill-treatment at the hands of both State and non-State actors: did the delegation have any information on such cases?

51. He was also interested to know the extent to which ethnic minorities were represented in the police and other security forces. Given that the report stated that no victims had come forward to report cases in which law enforcement officers had been accused of rape or the use of violence or torture against members of ethnic communities, he wondered whether victims were aware of their rights. In particular, considering that victims were likely to fear reprisals, he asked whether such abuses might in fact have occurred and whether any investigations had been conducted or other measures taken to encourage reporting by victims.

52. He would appreciate information on specific measures taken and progress achieved under the Government's national action plan against trafficking in persons.

53. **Ms. Izsák-Ndiaye** said that she was pleased to learn of the Government's efforts to establish an inclusive national identity, as that was important for any peaceful and stable society. However, she was concerned that the country's institutional framework might not be strong enough to deal with the challenges ahead; additional guarantees needed to be put in place in order to manage diversity appropriately. While it might be true that the Ombudsman had not taken up any cases of racial discrimination because they had been dealt with at the local level, that could not be verified inasmuch as the local centres did not provide statistics or information on the cases that they handled. She asked whether the Government planned to strengthen its institutional framework by establishing a new body specifically to deal with discrimination cases and she wished to know what other challenges the State party faced in combating discrimination and how it planned to address them.

54. **Mr. Murillo Martínez** said that he was curious to know whether the laws of Kyrgyzstan provided for the granting of pardons in cases such as that of Mr. Askarov. He was grateful for the explanation of the root causes of inter-ethnic conflicts and was interested to know more about the role played by the Assembly of the Peoples of Kyrgyzstan. Considering that in his own region, the acknowledgement of differences had

long been regarded as a threat to national unity, he welcomed the State party's efforts to promote diversity. He wondered whether the Government carried out regular surveys or research to learn more about perceptions of racism and racial discrimination in the country, especially as such instruments might capture sentiments that would otherwise go unnoticed.

55. Referring to the delegation's statement that the burden of proof lay with the claimant in civil cases, he recalled the Committee's usual practice of asking States parties to enact legislation providing for the reversal of the burden of proof in civil and labour proceedings as that was considered to be an effective mechanism for combating racism and racial discrimination. Lastly, he invited the State party to provide in its next periodic report information on the representation of minorities in the prison population.

56. **Mr. Ketirenov** (Kyrgyzstan), speaking in relation to Operation Arsenal and other action taken to retrieve firearms that had gone missing during the events of 2010, said that efforts were under way to promote the voluntary return of arms. The Criminal Code provided that persons who voluntarily handed in weapons would be relieved of criminal responsibility for illegally bearing firearms.

57. Regarding the identification of extremist organizations, Kyrgyzstan had a dedicated institution whose function it was to assess whether materials were of an extremist nature. Parties were able to contest the institution's expert assessment and could also appeal against court decisions that identified an organization as extremist.

58. **Mr. Kamchybekov** (Kyrgyzstan) said that the deadline for Mr. Askarov to submit an appeal had not yet lapsed. An appeal for a sentence reduction or for release could be lodged at any time.

59. International human rights standards were accorded priority in criminal proceedings. The deportation of stateless persons or foreign nationals who violated the conditions of their stay could only be ordered by a court; the person's right to a fair trial and to a defence were guaranteed.

60. There were several ways in which a person could be acquitted, including by appealing to the courts for a pardon. The power to grant pardons was vested in the President.

61. **Mr. Abdyrakhmanov** (Kyrgyzstan) said that the Government took a step-by-step approach to combating trafficking in persons and in 2017 had adopted a number of decisions to that end. The Government's anti-trafficking programme for the period 2013–2016 had been extended for a further four years. A standing State body, the State Migration Service, had authority over questions related to trafficking.

62. **Mr. Saliev** (Kyrgyzstan) said that the State Agency for Local Self-Government and Inter-Ethnic Relations operated under the auspices of the President and worked with authorities in 31 cities and 453 rural areas. Its focus was on developing self-government bodies, in keeping with the status of Kyrgyzstan as the first country in the region to have adopted a law on self-government. The Agency also had a mandate to address inter-ethnic questions and maintained special offices in 20 multi-ethnic areas of the country. The information and early warnings received by the Agency's monitoring centre were analysed and fed into recommendations that were sent to the Ministry of Internal Affairs, the State Committee on National Security and other government ministries and representatives.

63. **Mr. Kamchybekov** (Kyrgyzstan) said that the authorities in Osh and Jalal-Abad had allowed people to build houses and other structures on plots of land for which, in many cases, they had no proof of ownership. In the light of the need to expand road infrastructure, the Government had subsequently decided that the buildings should be demolished and the owners compensated. Under the Constitution, property was inviolable and no one could be deprived of it arbitrarily; a procedure existed whereby persons not satisfied with the amount of compensation awarded might apply to the courts for additional compensation or damages. With regard to the make-up of the judiciary, he said that there were 14 judges from ethnic minorities.

64. **Mr. Mukashev** (Kyrgyzstan) said that the Government did not have any information suggesting that lesbian, gay, bisexual and transgender individuals who belonged to an ethnic minority were especially vulnerable to aggression. Kyrgyzstan had

fairly liberal legislation and there was no policy that specifically targeted that part of the population. He cautioned against jumping to the conclusion that ethnicity was a factor in everything that happened in the south of the country, where minorities accounted for a large part of the population.

65. **Ms. McDougall** said that she was pleased that the Government was working with various United Nations bodies and she invited the State party to request the assistance of the Office of the United Nations High Commissioner for Human Rights in drafting an anti-discrimination law that complied with the Convention. In her experience, strong and cohesive societies were those in which all groups were included in the national identity. It was crucial that those groups felt equal to one another and that people from all groups were visibly involved in decision-making at the highest levels of society. While laws and language were important aspects of the struggle against discrimination, people and their trust in one another were what mattered most.

66. By way of conclusion, she reminded the State party of the importance that the Committee attached to input from both international and national non-governmental organizations. The Committee would be extremely displeased to learn that any civil society group involved in the review process had been subjected to harassment or placed on the list of extremist organizations.

67. **The Chair** said that the dialogue had enhanced the Committee's understanding of the situation in Kyrgyzstan. He congratulated the State party on its efforts and encouraged it to take all necessary measures to fully implement the Committee's concluding observations.

The meeting rose at 1 p.m.